

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

|                               |   |                      |
|-------------------------------|---|----------------------|
| JUDITH TRACKWELL,             | ) |                      |
|                               | ) |                      |
| Plaintiff,                    | ) | 4:05CV3171           |
|                               | ) |                      |
| v.                            | ) |                      |
|                               | ) |                      |
| B & J PARTNERSHIP, CLAY F.    | ) | MEMORANDUM AND ORDER |
| SMITH, WILLIAM D. SMITH, A.   | ) |                      |
| JOYCE SMITH, CAPITOL TITLE,   | ) |                      |
| HOMESERVICES OF NEBRASKA,     | ) |                      |
| CHICAGO TITLE, HOME REAL      | ) |                      |
| ESTATE, HOME SERVICES OF      | ) |                      |
| AMERICA, F. WARD HOPPE, SUSAN | ) |                      |
| LADUKE, JAMES LAMPERE,        | ) |                      |
| ROBERT MOLINE, MICHAEL        | ) |                      |
| TAVLIN, and WOODS BROTHERS    | ) |                      |
| REALTY,                       | ) |                      |
|                               | ) |                      |
| Defendants.                   | ) |                      |
|                               | ) |                      |

Pending before me are the defendant's motion to disqualify plaintiff's counsel, filing 43; the plaintiff's motion to file a response to the defendant's reply to the motion to recuse, filing 68; and the motion of plaintiff's counsel to withdraw, filing 71.

If granted, the motion to withdraw will render moot the portion of the defendant's motion to disqualify which seeks an order disqualifying Ms. Wickenkamp from representing the plaintiff in this case. However, granting the motion to withdraw will not moot the defendant's request for attorney fees and costs related to filing the motion to disqualify.

IT THEREFORE HEREBY IS ORDERED:

1. Counsel's motion to withdraw, filing 71, is granted, effective upon the filing of a certificate of service or affidavit indicating that the plaintiff has been served with a copy of this order.

2. Plaintiff is given 30 days from the date of this order in which to either: (1) obtain the services of substitute counsel and have that attorney file an appearance in her behalf; (2) file a motion in this court for the appointment of counsel, setting forth her present financial status, and the reasons she believes counsel should be appointed; or (3) indicate, by pleading, that she will proceed in this case without counsel. If none of these actions is taken within the next thirty days, this case will be subject to dismissal.

3. Plaintiff's motion to file a response to the defendant's reply to the motion to recuse, filing 68, is granted. Any response shall be filed on or before February 24, 2006, at which time the defendant's motion to disqualify shall be deemed submitted.

DATED this 16<sup>th</sup> day of February, 2006.

BY THE COURT:

s/ *David L. Piester*

David L. Piester  
United States Magistrate Judge